

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES, *et al.*,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

No: 1:23-cv-00108-LMB-JFA

[PROPOSED] ORDER

Upon consideration of Defendant Google LLC’s Motion *in limine* to Exclude Non-Party Lay Opinions Regarding Google’s Alleged Monopoly or Anticompetitive Conduct (“Motion”), it is hereby

ORDERED that the Motion is GRANTED. Plaintiffs are precluded from offering lay opinion testimony from non-party witnesses regarding market definition, market power, or competitive effects. It is further

ORDERED that the following non-party witness testimony, whether offered live or by deposition, is excluded for the reasons set forth below:

Testimony	Basis of Exclusion
AppNexus (O’Kelley)	
Dep. Tr. 74:17-75:21	Inadmissible lay opinion, lacks personal knowledge,
Dep. Tr. 95:20-96:14	Inadmissible lay opinion, lacks personal knowledge,
Dep. Tr. 114:3-11	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 125:13-126:19	Inadmissible lay opinion, hearsay
Equativ (Creput)	
Dep. Tr. 23:22-24:3	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 24:4-9	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 115:7-13	Inadmissible lay opinion, lacks personal knowledge
Index Exchange (Casale)	

Testimony	Basis of Exclusion
Dep. Tr. 115:18-116:5	Lacks personal knowledge
Dep. Tr. 132:17-133:8	Inadmissible lay opinion
Dep. Tr. 147:5-12	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 147:13-15	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 158:16-24	Lacks personal knowledge
Dep. Tr. 197:8-18	Lacks personal knowledge
Kargo (Shaugnessy)	
Dep. Tr. 14:23-15:2	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 35:16-19	Inadmissible lay opinion
Dep. Tr. 50:9-25	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 70:19-24	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 70:25-71:4	Inadmissible lay opinion, lacks personal knowledge
Kevel (Avery)	
Dep. Tr. 28: 11-13	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 43:13-20	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 50:25-51:7	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 51:9-13	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 96:17-22	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 96:23-97:6	Inadmissible lay opinion, lacks personal knowledge
Magnite (Soroca)	
Dep. Tr. 18:9-12	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 19:1-6	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 19:9-12	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 20:7-11	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 20:12-16	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 21:5-9	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 25:22-26:4	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 27:8-12	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 195:14-19	Inadmissible lay opinion, lacks personal knowledge
Microsoft (John)	
Dep. Tr. 183:24-184:5	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 184:17-185:4	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 186:3-13	Inadmissible lay opinion, lacks personal knowledge, hearsay
Dep. Tr. 194:25-195:7	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 204:3-14	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 238:17-239:3	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 243:3-19	Inadmissible lay opinion, lacks personal knowledge
OpenX (Gentry)	

Testimony	Basis of Exclusion
Dep. Tr. 17:16-21	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 18:8-19	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 30:15-23	Lacks personal knowledge, hearsay
Dep. Tr. 32:19-22	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 40:13-16	Inadmissible lay opinion, lacks personal knowledge
The Trade Desk (Dederick)	
Dep. Tr. 153:23-154:2	Inadmissible lay opinion
Dep. Tr. 154:3-155:14	Inadmissible lay opinion
Dep. Tr. 162:7-22	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 205:15-206:24	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 206:25-207:24	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 207:25-208:8	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 215:15-217:1	Inadmissible lay opinion, lacks personal knowledge
NewsCorp (Minkin)	
Dep. Tr. 189:19-22	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 189:23-190:4	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 198:23-199:2	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 199:10-14	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 199:15-20	Inadmissible lay opinion, lacks personal knowledge
New York Times (Glogovsky)	
Dep. Tr. 174:15-24	Lacks personal knowledge
Dep. Tr. 283:16-284:2	Inadmissible lay opinion, lacks personal knowledge
Vox (Pauley)	
Dep. Tr. 15:20-16:3	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 29:13-19	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 41:25-42:9	Inadmissible lay opinion, lacks personal knowledge
Dep. Tr. 54:9-17	Lacks personal knowledge
Dep. Tr. 120:6-14	Lacks personal knowledge
NBC Universal + Comcast (Bhatia) Dep. Tr.	
Dep. Tr. 90:23-91:3	Inadmissible lay opinion, lacks personal knowledge

Entered this ___ day of _____, 2024

Alexandria, Virginia

Hon. Leonie M. Brinkema
United States District Judge